

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR

WRIT PETITION No.15319 of 2025

ORDER : *(per Hon'ble Justice Gadi Praveen Kumar)*

Heard Sri K.Laxmaiah, learned counsel representing Sri Saidulu Easarapu, learned counsel appearing for the petitioners and Sri Swaroop Oorilla, learned Special Government Pleader representing the learned Advocate General for the respondent Nos.1 to 3.

2. The present Writ Petition is filed by the adoptive and biological parents of the alleged detainee Baby boy Ashrit seeking custody of the child from respondent Nos.2 and 3, with a consequential direction to respondent Nos.2 and 3 to produce the alleged detainee before this Court and handover custody of the alleged detainee boy to petitioner Nos.1 and 2 and also provide an opportunity to petitioner Nos.1 and 2 to legalize the adoption process.

3. The petitioner Nos.1 and 2, who are the wife and husband were in search of child for adoption. Meanwhile, petitioner Nos.3 and 4, who are the biological parents of the alleged detainee, are blessed with three male children. Since, petitioner Nos.1 and 2 are relatives to petitioner Nos.3 and 4, they requested petitioner Nos.3 and 4, who do not have financial capacity to look after the three children, in adoption of the alleged detainee. In this regard a notarized deed of adoption was also executed on 23-11-2023.

4. It is further averred that pursuant to the adoption, the alleged detainee was residing with the adopted parents i.e. petitioner Nos.1 and 2, and they also performed various ceremonies.

5. It is further averred that on 20-02-2025, when petitioner Nos.1 and 2 went to Alampur Jogulamba Temple to perform Chandi Yagam on Baby's name and while they were returning from Alampur at Boothpur village, police stopped them and took away the boy in their custody stating that their adoption was illegal. Thereafter, as per the directions of the Child Welfare Committee, the alleged detainee was shifted to Specialised Adoption Agency (SAA), Nalgonda for shelter on 01-03-2025.

6. It was further averred by the petitioners that the respondents without giving any notice and without providing an opportunity of being heard, detained the alleged detainee. As such, they approached this Court for indulgence for production of the alleged detainee.

7. Sri Swaroop Oorilla, learned Special Government Pleader appearing on behalf of respondents filed counter-affidavit stating that the Child Help Line received an unknown call stating that petitioner Nos.3 and 4 allegedly sold their 18 months boy. Immediately, the Officials of the respondents rushed to Ramachandrapuram village and conducted enquiry. During enquiry, it is revealed that petitioner Nos.3 and 4 have sold their minor son i.e. the alleged detainee to petitioner Nos.1 and 2.

8. It was further contended that the Extension Officer of the Integrated Child Development Services (ICDS), Yandlapally Sector, Suryapet Mandal lodged a complaint on 27-02-2025 to the Station House Officer, Suryapet Rural PS stating that petitioner Nos.3 and 4 are residing in her Sector limits i.e. Ramachandrapuram Village, Suryapet Mandal and were blessed

with three children, and about 6 months back, she noticed that the third son was not present with them and when questioned to the 3rd petitioner, nothing was revealed, thereby the Extension Officer suspected that petitioner Nos.3 and 4 might have sold their third son to some others, and as such, lodged complaint before the 2nd respondent.

9. During investigation, it was revealed that petitioner Nos.3 and 4 are the biological parents of the alleged detainee, and petitioner Nos.1 and 2, who are issueless, have purchased the boy through accused Nos.5 to 10 in Cr.No.51/2025 under Section 80, 81 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act'), who acted as mediators for an amount of Rs.5,00,000/- on 23-11-2024. The investigation further revealed that out of said total amount of Rs.5,00,000/-, the mediators have given Rs.2,00,000/- to the petitioner Nos.3 and 4 and shared the remaining amount of Rs.3,00,000/- among themselves.

10. Sri Swaroop Oorilla, learned Special Government Pleader further contended that on 28-02-2025, the police called the petitioners for enquiry along with the alleged detainee. During the

course of investigation, it was revealed that there was no legal adoption of the alleged detainee by petitioner Nos.1 and 2 and petitioner Nos.3 and 4 have illegally sold the child. Therefore, a notice was also issued under Section 35(3) of BNSS.

11. Learned counsel for the respondents further contended that pursuant to the complaint lodged by Extension Officer, the Sub-Inspector of Police, Suryapet sent the alleged detainee under Police escort in terms of Section 31(1) of the Act. Since it was late night i.e. at about 9-30 p.m. the 2nd respondent issued oral instructions to the 3rd respondent and also to the Centre Administrator of Sakhi Centre, Suryapet to admit the alleged detainee at Sakhi Centre, Suryapet for care and protection. Accordingly, as per the request of respondent No.3, the Sakhi Centre, Suryapet admitted the alleged detainee at their Centre at about 10.02 p.m. on 28-02-2025.

12. It was further stated by the respondents that the alleged detainee is in the safe custody of the Specialised Adoption Agency (SAA)/Shishugruha, Nalgonda and staff of the said Agency are taking care and protection of the alleged detainee, and the alleged detainee is hale and health and they are also providing love and

affection to the children who are admitted in the Agency including the alleged detainee.

13. The learned counsel for the petitioners placed reliance on the judgment of the Apex Court in ***Dasari Anil Kumar and another Vs. Child Welfare Project Director and others***¹ contending that in the said case, the respondent authorities were directed to handover the custody of the children to the respective adoptive parents. However, the said judgment is not applicable to the petitioners on the ground that in the judgment relied upon by them, the validity of the action of the police authorities in taking away the custody of the minor children, who are under the custody of the adopted parents is questioned as the adoption was under the provisions of the Hindu Adoption and Maintenance Act, 1956. In the present, the adoption has no legal sanctity.

14. Learned counsel for the petitioners further relied upon the judgment a Division Bench of this Court in W.P.No.13338 of 2024 dated 16-05-2024 contending that in the said case, the respondents were directed to return the child. In the said case, the parent, who

¹ 2025 SCC Online SC 1689

has a custody of the child is found to be 'unfit' or 'incapacitated' by Committee to care for and protect the safety and well being of the children. In the present case on hand, the petitioners are unable to establish the legal adoption more particularly, the prayer sought by the petitioners itself demonstrates to regularize the adoption process in the interest of justice.

15. On the other hand, learned Special Government Pleader appearing on behalf of the respondents relies upon the judgment of a Division Bench of this Court dated 12-06-2025 passed in W.P.No.15079 of 2025, wherein this Court dismissed the said Writ Petition holding that the petitioners cannot claim an illegal detention of anybody, specially where the alleged detainee is in the safe custody of the Child Welfare Committee, which is within the statutory framework of the Act. Admittedly, in the present case, the alleged detainee is also in the safe custody of the Specialised Adoption Agency (SAA)/Shishugruha, Nalgonda

16. On perusal of the counter-affidavit filed by the respondent, the Chairperson/Members of the 2nd respondent addressed letter to the Chairperson/Members of Child Welfare Committee, Nalgonda to

provide admission to the alleged detainee, which was duly sanctioned by the authorized Committee members. Similarly, the report submitted at the time of production of the child before the Committee was also thoroughly examined by the Chairperson/Members and the members of the Expert Category wherein the findings of the Committee was authorized, reveals the case of illegal adoption. Further, the 2nd respondent sent the child through Form-18 under Rules 18(5), 18(9) and 19(26) of Order of Placement of a Child in an Institution, a requisite format for placing the Child before the Specialised Adoption Agency (SAA)/Shishugruha, Nalgonda on 03-03-2025.

17. The record further reveals that a Cr.No.51/2025 has been registered against the petitioners under the provisions of 80 and 81 of the Act.

18. Once, the Child Welfare Committee, which is a quasi-judicial authority constituted under the act is engaged for addressing the needs of the children who require care and protection within a District, the said Committee is responsible to take care of protection, treatment, development and rehabilitation of such

children including handling cases of abandoned, lost or orphaned children and processing them for adoption.

19. Admittedly, there is no valid legal adoption and when there is no valid legal adoption, the custody of the Child Welfare Committee cannot be termed as illegal detention.

20. Therefore, under the circumstances of the case, this Court is of the considered opinion that no case is made out for the ingredients attracting the provisions of Habeas Corpus warranting interference by this Court.

21. In view of the reasons set out above, there is no merit in the Writ Petition and it is accordingly dismissed.

22. Interim orders, if any, shall stand vacated and all connected applications are disposed of. There shall be no order as to costs.

MOUSHUMI BHATTACHARYA, J

GADI PRAVEEN KUMAR, J

Date: 26 .08.2025
Vsv